

Article - Education

[\[Previous\]](#)[\[Next\]](#)

§8–412.

(a) (1) In this section the following words have the meanings indicated.

(2) “Child” means an individual who is eligible to receive education services in accordance with the Individuals with Disabilities Education Act and applicable State law and regulation.

(3) “Educational decision making process” means all procedures relating to the identification, evaluation, or educational placement of a child and the provision of a free appropriate public education, including the appeal procedures provided for by § 8–413 of this subtitle.

(4) “Local school superintendent” means the school system superintendent or the administrative head in charge of a public agency as defined in paragraph (7) of this subsection that provides educational services to children.

(5) (i) “Parent” means:

1. A child’s natural parents;
2. A child’s adoptive parents;
3. A guardian;
4. A person acting as a parent of a child such as a relative or a stepparent with whom a child lives;
5. A foster parent with whom a child lives if the foster parent has been granted limited guardianship for educational decision making purposes by the court that has placed the child in foster care; or
6. Any other individual who is legally responsible for a child’s welfare.

(ii) “Parent” does not include a social worker or other employee of a public agency who is responsible for the education or care of the child.

(6) “Parent surrogate” means a person who is appointed by the local school superintendent to act in place of a parent of a child in the educational decision making process.

(7) (i) “Public agency” includes the State Department of Education, local education agencies, and other agencies that are responsible for providing education to a child with a disability, including the Maryland Department of Health, the Behavioral Health Administration, the Developmental Disabilities Administration, the Department of Juvenile Services, the Maryland School for the Deaf, the Maryland Department of Labor, and the Department of Public Safety and Correctional Services.

(ii) For the purpose of this section, the Maryland School for the Blind shall be considered a public agency.

(8) “Unaccompanied homeless youth” means a homeless youth, as defined by the McKinney–Vento Homeless Assistance Act, who is not in the physical custody of a parent or guardian.

(9) “Unavailable” means that a public agency, after reasonable efforts, cannot discover the physical whereabouts of a child’s parent.

(10) “Unknown” means that a public agency, after reasonable efforts, cannot identify the child’s parent.

(11) “Ward of the State” means a child for whom a State or county agency or official has been appointed legal guardian, or who has been committed by a court of competent jurisdiction to the legal custody of a State or county agency or official with the express authorization that the State or county agency or official make educational decisions for the child.

(b) Public agency personnel shall request that the local school superintendent appoint a parent surrogate to represent a child at any point in the educational decision making process if it is suspected that the child may be disabled and if:

(1) The child is a ward of the State;

(2) The child is an unaccompanied homeless youth; or

(3) (i) The parents of the child are unknown or unavailable; and

(ii) The child’s rights have not been transferred in accordance with § 8–412.1 of this subtitle.

(c) Any request to the local school superintendent for the appointment of a parent surrogate under subsection (b) of this section shall include:

(1) The name, date of birth, sex, legal domicile, and present residence of the child;

(2) A statement that the child is eligible for the appointment of a parent surrogate in accordance with subsection (b) of this section;

(3) Documentation, as applicable, of the efforts made over the course of 15 business days to identify the parent if unknown or to locate the parent if unavailable that include, at a minimum:

(i) A search of telephone directories; and

(ii) Letters sent by certified mail; and

(4) The name and qualifications of the proposed parent surrogate whom the public agency considers to be qualified to represent the child in the educational decision making process.

(d) The local school superintendent shall ensure that the person proposed to serve as the child's parent surrogate:

(1) Has no interest that conflicts with the interests of the child to be entrusted to that person; and

(2) Has knowledge and skills that ensure adequate representation of the child.

(e) (1) The local school superintendent shall appoint a parent surrogate not more than 30 days after a determination of need, if the local school superintendent finds:

(i) The child is eligible for the appointment of a parent surrogate in accordance with subsection (b) of this section; and

(ii) The proposed parent surrogate is qualified to represent the child in the educational decision making process in accordance with subsection (d) of this section.

(2) If the local school superintendent finds that the child is not eligible for the appointment of a parent surrogate in accordance with subsection (b)

of this section, the local school superintendent shall notify the requesting individual of this finding and specify the reasons in writing.

(3) If the local school superintendent finds that the proposed parent surrogate is not qualified to represent the child in the educational decision making process in accordance with subsection (d) of this section, the local school superintendent may:

(i) Request public agency personnel to propose the appointment of another parent surrogate who is qualified; or

(ii) Select and appoint a parent surrogate who is qualified.

(4) (i) The local school superintendent shall notify the State Superintendent in writing of the parent surrogate appointment.

(ii) The notice shall occur within 30 days after the day on which the appointment is made.

(iii) The notification shall include the child's name, the name of the parent surrogate, and any other information deemed applicable.

(f) (1) A child entrusted to a parent surrogate shall be represented by that parent surrogate in the educational decision making process.

(2) A parent surrogate is not liable to the child entrusted to that parent surrogate or to the parent of that child for any damages that result from acts or omissions of that parent surrogate constituting ordinary negligence.

(3) This immunity does not apply to liability covered by any applicable insurance, to the extent of that coverage, or to acts or omissions constituting gross, willful, or wanton negligence.

(g) (1) The local school superintendent may terminate the appointment of a previously assigned parent surrogate for good cause.

(2) When the local school superintendent terminates the appointment of the parent surrogate, the local school superintendent shall state the reasons for the action and notify the State Superintendent, in writing, of the termination of a previously appointed parent surrogate.

(3) The local school superintendent shall submit the name and qualifications of another individual who is assigned as the new parent surrogate if

the child continues to require a parent surrogate in accordance with subsection (b) of this section.

(h) The State Board shall adopt rules and regulations in accordance with the Administrative Procedure Act on the qualifications, selection, appointment, training, compensation, removal, and replacement necessary to implement this section.

[\[Previous\]](#)[\[Next\]](#)